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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/858,163	05/15/2001	Michael Ehrhart	283-325	3286

7590 11/02/2004
WALL MARJAMA & BILINSKI
101 South Salina Street, Suite 400
Syracuse, NY 13202

EXAMINER

NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 11/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/858,163

Applicant(s)

EHRHART, MICHAEL

Examiner

Kimberly D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-26 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-26 and 30-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/21/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Restriction

1. Acknowledgement is made of Response to Restriction filed 1 October 2004, which Group II, consisting of claims 11-26 and 30-32, has been elected for prosecution in this Office action.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-26 and 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilz, Sr. et al. (US 6,283,375; hereinafter "Wilz, Sr.").

Re claims 11, 14, 16, and 30-32: Wilz, Sr. teaches a portable device (181 in fig. 8A, 131 in fig. 6A) comprising:

an imaging assembly including a two-dimensional solid state image sensor and optics focusing an image onto the image sensor (figs. 6A, 10A-10D; col. 44, lines 4-15; col. 62, line 61 through col. 63, line 18);

a trigger (the data transmission control switch (145 in fig. 6A; 185B in fig. 8A; col. 4, line 40 through col. 5, line 11; col. 44, lines 40-67; col. 51, lines 5-18));

a portable housing (141 in fig. 6A; 181 in fig. 8A) encapsulating the solid state image sensor;

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a control circuit (54 in figs. 2E-2F) configured to operate in a mode in which the control circuit stores an image in response to a user-actuation of the trigger (col. 44, lines 56-67) (col. 23, line 24-31; col. 33, lines 16-37);

wherein the control circuit is further configured to operate in a mode in which the control circuit sends the image (barcode symbol) to a separately housed spaced apart device (remote unit 182 in fig. 8A) together with a set of executable instructions (i.e. instructions to decode the barcode symbol) executable by the spaced apart device (remote unit), the executable instructions instructing the separately housed spaced apart device to (a) decode a bar code symbol represented in the image to generate a decoded-out message; and (b) transmit back to the portable device the decoded-out message (i.e., "Optionally, a laser scanning barcode symbol scanning engine (without a digitizer or decoder) can be contained within hand-mounted unit 181, and the necessary digitizing and scan-data processing can be carried out by the microcomputing system within the remote unit 182 using techniques known in the art..." (col. 51, lines 46-60)); and

Wilz, Sr. also teaches the portable barcode reader having a two-way communication with the base unit (see figs. 13 and 19), which obviously the portable barcode reader receiving information from the remote unit, which serves as the control circuit is further configured to receive from the separately housed spaced apart device the decoded-out message decoded from the image sent by the control circuit to the separately housed spaced apart device.

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Re claims 12-13: Wilz, Sr. teaches the portable device further includes an illumination assembly comprising at least one LED (col. 70, line 38 through col. 71, line 25).

Re claim 15: Wilz, Sr. teaches the portable housing is in the form factor of a cellular telephone (col. 44, lines 1-39).

Re claims 17, 19-22, 24-26: Wilz, Sr. teaches a method for operating a portable device having a two-dimensional solid state image sensor, a memory, and being configured to decode a barcode in accordance with a decoding program, the hand held device being in communication with a separately housed spaced apart device, the method comprising the steps of:

(a) storing into the memory an image file in a file format suitable for storing image files, the image file having an open byte memory location, the image file format having an associated file transfer protocol (col. 51, lines 19-45);

(b) decoding a barcode (183 in fig. 8A) represented in an image utilizing the decoding program to produce decoded-out message data (col. 19, lines 24-37);

(c) writing the decoded-out message data yielded by execution of decoding step (b) into the image file open byte memory location referred to in step (a); and

(d) transmitting the image file including the decoded-out message data to the separately housed spaced apart device utilizing the file transfer protocol referred to in step (a) so that both of image data of the image file referred to in step (a) and the decoded out message data referred to in step (b) are transferred utilizing a single file transfer protocol (col. 51, lines 19-45; col. 63, lines 19-41).

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Re claims 18, 23: Wilz, Sr. teaches the image file format may be a PDF file (col. 63, lines 19-41).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 571-272-2402. The examiner can normally be reached on Monday-Friday 7:30-4:30.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 571-272-2398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



KDN

27 October 2004


MICHAEL G. LEE
SUPERVISORY PATENT EXAMINER
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